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3 UNITED STATES DISTRICT COURT  
4 DISTRICT OF NEVADA

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6 UNITED STATES OF AMERICA,

7 Plaintiff,

8 v.

9 ALBERT JASON WRIGHT,

10 Defendant.

Case No. 2:14-cr-00028-KJD-GWF  
2:16-cv-02901-KJD

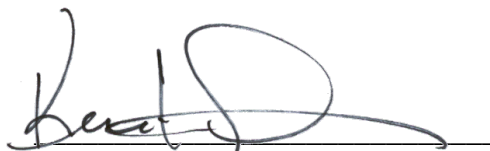
ORDER

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12 Presently before the Court is Defendant's Motion to Vacate, Set Aside or Correct  
13 Sentence Pursuant to 28 U.S.C. § 2255 (#36). Essentially, Defendant seeks to be re-sentenced  
14 because his "sentence was enhanced under 2k2[.]" Defendant argues that Johnson v. United  
15 States, 135 S. Ct. 2551 (2015) invalidated an identical residual clause as that used to enhance his  
16 sentence. However, Defendant is factually wrong. While his sentence was enhanced pursuant to  
17 U.S.S.G. § 2K2, the enhancement was not based on a residual clause, but upon 2K2.1(b)(4)(A)  
18 which increased the offense level by two points because the crime involved a stolen firearm.  
19 Further, even if Defendant had been sentenced under the residual clause, Beckles v. United  
20 States, 137 S. Ct. 886, 890 (2017) determined that sentences enhanced under "the advisory  
21 guidelines are not subject to vagueness challenges under the Due Process Clause."

22 Accordingly, IT IS HEREBY ORDERED that Defendant's Motion to Vacate, Set Aside  
23 or Correct Sentence Pursuant to 28 U.S.C. § 2255 (#36) is **DENIED**;

24 IT IS FURTHER ORDERED that all other outstanding motions are **DENIED as moot**.

25 Dated this 30<sup>th</sup> day of October, 2019.

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28 Kent J. Dawson  
United States District Judge